IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5511 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DAHYABHAI R SOLANKI

Versus

STATE OF GUJARAT

Appearance:

MR KANUBHAI I PATEL for Petitioner

MS. D.S. PANDIT, ASSTT. GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 01/09/2000

ORAL JUDGEMENT

The petitioner challenges the order of his transfer dated 5th April, 1990 from Viramgam to Nadiad as a Peon. He resisted the transfer and therefore, the impugned communication dated 29th July, 1991 as per Annexure "J" to the petition was sent to him, requiring

him to report at the place of his transfer, failing which he would be relieved from service. It appears that no interim relief was granted when this petition was admitted on 7.9.1992. Most likely the petitioner must have reported at the place of his transfer.

2. The grievance of the petitioner was that his transfer was punitive and as a result of the charges mentioned in the memo at Annexure "A" to the petition. By that memorandum dated 2.12.1989, the petitioner was required to explain his misconduct of giving wild abuses to the Superintendent on 2.8.1989 as well as getting agitated on being explained about the public holidays admissible to Class IV servants and again abusing the Superintendent.

3. In the affidavit-in-reply filed by the Deputy Director of Social Defence, it is pointed out that between 9.4.1969 till 12.4.1990, the petitioner had worked at various places as Peon, Watchman and Watchguard. It is stated that the petitioner was transferred to Nadiad after several complaints were received from the Supervisor of the Observation Home, Viramgam and after issuance of memo at Annexure "A" to the petition. It is stated that the petitioner was personally heard as regards the memo, which was issued to him. It is also stated that after issuance of memo and charge-sheet and after Departmental enquiry in which the alleged misconduct was proved and the petitioner was guilty of various irregularities, instead of resorting to the action of terminating his services, the respondent No.2 thought it fit to transfer him from Viramgam to Nadiad. It is stated that the transfer was in the interest of administration.

4. Transfer was an incident of petitioner's service and if the petitioner's continuance at a particular place was not conducive to the smooth administration, there was nothing wrong if he came to be transferred to another place in the interest of administration. Misbehaviour at a place does not insulate an employee against transfer without departmental inquiry and it is not incumbent upon the authority to impose punishment after a Departmental enquiry in such cases. If, in the opinion of the authority transfer of an employee can serve the purposes of bringing peace to the place where he was hurling abuses to the superiors, that was a proper thing done by the authority by transferring him from Viramgam to Nadiad, on administrative grounds. There is therefore absolutely no valid ground for interfering with the impugned transfer of the petitioner and the petition is

rejected. Rule is discharged with no order as to costs.

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*/Mohandas